
STATUTORY INSTRUMENTS

1991 No. 500

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Capital Finance)
(Amendment) Regulations 1991

<i>Made</i>	- - - -	<i>7th March 1991</i>
<i>Laid before Parliament</i>		<i>8th March 1991</i>
<i>Coming into force</i>		
<i>For the purposes of regulation 3</i>		<i>31st March 1991</i>
<i>For all other purposes</i>		<i>1st April 1991</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 40(5), 48(5), 58(9) (b), 59(3) to (5), 61(4) and 190 of, and paragraph 18(1) of Schedule 3 to, the Local Government and Housing Act 1989(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Local Authorities (Capital Finance) (Amendment) Regulations 1991.

(2) These Regulations shall come into force for the purposes of regulation 3 on 31st March 1991, and for all other purposes on 1st April 1991.

Amendments

2. The Local Authorities (Capital Finance) Regulations 1990(2) are amended as follows—

(a) in regulation 2, at the end, there shall be added—

“(3) Subject to paragraph (4) below, the following expenditure, in so far as it would not be expenditure for capital purposes by virtue of section 40(2), shall be such expenditure, namely, expenditure incurred on or after 1st April 1991 on the carrying out of works which are intended—

(1) 1989 c. 42.

(2) S.I.1990/432, to which there are amendments not relevant to these Regulations.

- (a) to increase substantially the thermal insulation of a building or part of a building; or
 - (b) to increase substantially the extent to which a building or part of a building can or will be used by a disabled person or an elderly person; or
 - (c) to reduce substantially, in relation to a building or part of a building, the risk to persons in case of fire.
- (4) Expenditure on the matters mentioned in sub-paragraphs (a) to (c) of paragraph (3) above shall not be regarded as expenditure for capital purposes unless it should be so regarded in accordance with proper practices.
- (5) In paragraph (3) above,—
- “disabled person” has the meaning assigned by section 114(6) for the purposes of Part VIII of the Act;
- “elderly person” means a person aged 60 or over.
- (6) The following expenditure, in so far as it would not be expenditure for capital purposes by virtue of section 40(4), and in so far as it is not expenditure on approved investments, shall be expenditure for capital purposes, namely, expenditure incurred on or after 1st April 1991 on the making of advances, grants or other financial assistance to any person towards—
- (a) expenditure for capital purposes which has been incurred or is to be incurred by him on the matters mentioned in sub-paragraphs (a) and (c) of paragraph (3) above; or
 - (b) expenditure which has been incurred or is to be incurred by him on the carrying out of works which are intended to increase substantially the extent to which a building or part of a building can or will be used for any purpose.”;
- (b) in regulation 6—
- (i) at the end of paragraph (4) there shall be added—
 - “or
 - (d) it is a contract entered into on or after 1st April 1991 by a local authority and a residuary body which provides for the transfer of land to the authority.”; and
 - (ii) in paragraph (8) after sub-paragraph (a) there shall be inserted—
 - “(aa) “residuary body” means a body established by section 57 of the Local Government Act 1985; and”(3);
- (c) in regulation 13—
- (i) at the beginning there shall be inserted “(1)”; and
 - (ii) at the end there shall be added—
 - “(2) Any sums received on or after 1st April 1991 by a local authority in respect of the disposal of any interest in an asset shall not be capital receipts if the total of the sums received or to be received by the authority in respect of that disposal does not exceed £5,000.”;
- (d) in regulation 18—
- (i) in paragraphs (2)(b)(i) and (9) for the words “immediately before its disposal,” there shall be substituted “at the time of the decision referred to in paragraph (3),”;

- (ii) at the end of paragraph (3) there shall be added “provided that, if the disposal is made pursuant to a compulsory purchase order, and the authority did not decide to dispose of the interest in the land as described in sub-paragraph (a) above, the authority shall be treated for the purposes of this regulation as if they had so decided at the time of the decision referred to in sub-paragraphs (b) and (c) above.”; and
- (iii) in paragraphs (4)(b)(ii), (7) and (8) for the word “disposal” there shall be substituted “decision referred to in paragraph (3) above”;
- (e) in paragraph (4) of regulation 19 after the words “by the authority” there shall be inserted “on the disposal by the authority of the dwelling”;
- (f) after regulation 19 there shall be inserted the following regulation—

“Capital receipts to be treated as reduced: disposal of former residuary body assets

19A.—(1) Capital receipts which are received by a local authority on or after 1st April 1991 and are of a description specified in paragraph (2) below shall be treated for the purposes only of section 59 as reduced by an amount determined in accordance with paragraphs (4) and (5) below.

(2) For the purposes of paragraph (1) above, capital receipts derived from a disposal by a local authority of an interest in land are specified where—

- (a) the interest was acquired by the authority from a residuary body; and
- (b) the whole or part of the consideration falling to be given by the authority in respect of the acquisition falls to be given on the disposal by the authority of the interest.

(3) In paragraph (2)(a) above, “residuary body” means a body established by section 57 of the Local Government Act 1985.

(4) For the purposes of paragraph (1) above, the amount of the reduction in the case of capital receipts derived from any disposal shall be the amount of any consideration which falls to be given by the authority on the disposal by the authority of the interest in the land as mentioned in paragraph (2)(b) above.

(5) Paragraphs (5) and (6) of regulation 15 shall apply in relation to the amount of any reduction determined in accordance with this regulation as they apply in relation to the amount of any reduction determined in accordance with regulation 15.”;

- (g) in regulation 20—
 - (i) in paragraph (2) after the words “subject to paragraphs (3),” there shall be inserted “(3A),”;
 - (ii) after paragraph (3) there shall be inserted the following paragraph—

“(3A) In the case of non-monetary consideration which—

 - (a) is received by a local authority (“the recipient authority”) from another local authority in respect of a disposal of land which, at the time of the decision referred to in sub-paragraph (b) below—
 - (i) is used for a purpose mentioned in paragraphs 1 to 10 or 15 to 18 of Part I of Schedule 2 to these Regulations; or
 - (ii) is of a description mentioned in column (1) of Part II of that Schedule; or
 - (iii) had not been used for a period of two years for the purpose for which it was held by the recipient authority; and

- (b) consists of land which the recipient authority have decided to use for a purpose mentioned in paragraphs 1 to 10 or 15 to 18 of Part I or column (2) of Part II of Schedule 2 to the Regulations;
 - the reserved part of the notional capital receipt shall be nil.”; and
 - (iii) in paragraphs (7) and (8) for the words “or 19” there shall be substituted “19 or 19A”;
 - (h) in paragraph 5 of Part I of Schedule 1 after the words “Sums which are capital receipts by virtue of regulation 12” there shall be inserted “and which are annual or other periodic payments calculated by reference to any amounts outstanding by way of principal of money borrowed by the local authority,”; and
 - (i) at the end of Part I of Schedule 2 there shall be added—
 - “17. as a hostel providing accommodation for persons who are homeless within the meaning of Part 111 of the Housing Act 1985 (housing the homeless),
 - 18. as an allotment.”(4)
3. In Part II of Schedule 4 to the Local Authorities (Capital Finance) Regulations 1990—
- (a) at the beginning there shall be inserted “1.”;
 - (b) after the words “1st April 1990” there shall be inserted “and before 31st March 1991”; and
 - (c) at the end there shall be added—
 - “2. The modifications to be made in determining at any time on or after 31 st March 1991 a local authority’s adjusted credit ceiling are that—
 - (a) the determination shall be on the basis of their adjusted initial credit ceiling;
 - (b) no account shall be taken of—
 - (i) the reserved part of a capital receipt which is set aside under section 59(1) where the sum in question is a capital receipt in accordance with regulation 12 and the reserved part is 100 per cent by virtue of paragraph 5 of Part I of Schedule 1 to these Regulations;
 - (ii) any amount set aside by virtue of regulation 25(1)(c) or 26(1)(d); and
 - (iii) the reserved part of a capital receipt which is set aside under section 59(1) where the receipt is derived from the repayment of such an advance as is referred to in sub-paragraph (d) of Part I of this Schedule; and
 - (c) the adjusted credit ceiling shall be reduced by an amount equal to the total of any outstanding amounts in respect of which annual or other periodic payments, calculated by reference to those amounts, fell to be made to the authority by any body by virtue of—
 - (i) an order made under section 51(2), 58(2) or 67(4) of, or paragraph 7 or 9 of Schedule 10 to, the Local Government Act 1972, regulations made under section 67(1) or (2) of that Act, or an agreement made under section 68 of that Act, in relation to any matter which has been transferred by virtue of the order, regulations or agreement, as the case may be, from the authority to the body on or after 1st April 1990; or
 - (ii) an order made under section 23(3) or 84 of the London Government Act 1963 in relation to any matter which has been transferred by virtue of the order from the authority to the body on or after 1st April 1990;

and, for the purposes of this sub-paragraph, “outstanding amounts” means amounts which were outstanding at the time of the transfers referred to in paragraphs (i) and (ii) above by way of principal of money borrowed.”**(5)**

5th March 1991

Michael Heseltine
Secretary of State for the Environment

7th March 1991

David Hunt
Secretary of State for Wales

(5) Local Government Act 1972 (c. 70); subsections (6) and (7) of section 68 were repealed by Schedule 12 to the Local Government and Housing Act 1989. London Government Act 1963 (c. 33); paragraph (a) and part of paragraph (b) of section 23(3) were repealed with savings by, Schedule 17 to the Local Government Act 1985.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Capital Finance) Regulations 1990, which are concerned with the local authority capital finance system introduced by Part IV of the Local Government and Housing Act 1989.

The amendments made by these Regulations include a further extension of the definition of expenditure for capital purposes provided in section 40 of the 1989 Act, in respect of works to increase thermal insulation and fire safety, and in connection with the adaptation of buildings for use by disabled or elderly persons (regulation 2(a)). Regulation 2(b) provides for certain contracts between local authorities and residuary bodies not to be treated as credit arrangements under Part IV of the 1989 Act.

Various changes are also made in relation to capital receipts. Regulation 2(c) provides for sums of less than £5,000 received on the disposal of an asset not to be capital receipts. Amendments are made by regulation 2(d) to (f) and (1) to the way in which capital receipts are to be treated as reduced for certain purposes. As a result of the amendment made by regulation 2(g), provision for credit liabilities will not now be required to be made where, in certain circumstances, two local authorities exchange land. A minor amendment is made by regulation 2(h) to the provision for credit liabilities required to be made in one other case.

Fresh provision is made in regulation 3 for adjustments on or after 31 st March 1991 to an authority's credit ceiling, which is one of the components of the aggregate credit limit. A new adjustment is required to be made where assets have been statutorily transferred to another authority.